

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ARI TEMAN,

19-CR-696 (PAE)

ORDER

Defendant.

PAUL A. ENGELMAYER, District Judge:

The Court has received the attached email this morning from a person identifying himself as journalist “Jake Green” from “LawReports360.” The email poses questions to the Court about this case. The Court, however, has been unable to identify a journalist by the name “Jake Green” or a news organization by the name given by “Jake Green.” It appears possible that a person posing as “Jake Green” has sought to obtain the requested information from the Court. The Court notifies counsel that it has provided a copy of the email to the United States Marshals Service for further investigation.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: June 1, 2020
New York, New York

Questions regarding NYPost journalist's article on US v Teman

Jake Green @ LawReports360 <LawReports360@protonmail.com>

Mon 6/1/2020 10:53 AM

To: Engelmayer NYSD Chambers <EngelmayerNYSDChambers@nysd.uscourts.gov>

Hi Judge Engelmayer,

I came across this in-depth article by Lois Weiss of the New York Post's Between The Bricks column last night about a case before you that seems full of shocking misconduct, and wanted to ask you some questions for a possible article. Obviously, I would like to hear both sides, though if you are unable to comment I understand.

Here is her story, for your reference.

<https://betweenthebricks.com/2020/05/31/dershowitz-calls-out-sdny-prosecutorial-misconduct-against-prop-tech-ceo/>

Mr. Cernovich, a very popular journalist & Twitter personality with over 600,000 followers has also retweeted a Breitbart transcript on this case after Ms. Weiss's article.

<https://twitter.com/AriTeman/status/126239989421777154>

My questions are below. You can answer some and not others, of course. Anything you wish to remain "off the record" please note when that begins & ends.

1. Overall this case appears to be a civil billing dispute. The clients admit they had contracts, the Government admits there were terms allowing RCC drafts which are linked right from the main Terms page in fairly standard online Terms format, and the claim now seems to be that clients chose not to click to a subsection of the terms. Why is this case in criminal court? It seems to be a civil dispute where both parties agree there was a contract.
2. In this case the Government seems to want to create a new legal precedent where a customer can change their mind after signing or accepting a contract by claiming, more than a year after accepting it and accepting delivery of goods and using the goods for months, that they didn't read part of the contract. Even more surprising is that the Government seems to suggest a business owner should go to prison for not knowing that a client didn't read a subsection of a contract. How can a business owner safely enter a contract with this new liability? Do they now need to get every single paragraph signed? Every sentence? What if a client says they chose to skip over a few words or was distracted and missed a few words? Why is the claim that these three clients chose to skip over the link to the Payment subsection not equally absurd?
3. Airbnb, Amazon, Google, Netflix, all have their terms and conditions broken into sub-pages and this is actually required by some standards, such as having the privacy terms sub-linked by privacy verification organizations. Is your honor suggesting the CEOs of these companies should be imprisoned for fraud if a customer later says they didn't read one of the linked subpages? Wouldn't this case make nearly every website a crime?
4. Between the time Mr. Teman started to collect and the time he drafted the payments, evidence shows Mr. Teman and his attorney reminded customers for months of the terms, with Attorney Reinitz linking directly to the Payment subsection in multiple emails to Soleimani and Gabay, and even sent itemized emails with the fees due. Yet the Government then pushed the claim that customers weren't informed of the contract or terms. Soleimani appears to clearly ask for "a release". Gabay marked up the contract in Word including the paragraph with the payment terms and then his family member signed-up online, and Soon

Osberger appears to have copied that same paragraph with the, and then emailed Teman that the contract was acceptable to her building board. So I'm curious with such abundant evidence that the clients were informed of the contract and fees, why did you allow the prosecution to tell the Jury the clients weren't informed or invoiced when you had evidence otherwise? Is it your practice to allow attorneys to lie in court freely and leave it to the opposing side to object?

5. Why did this case not warrant a Rule 29 dismissal once all customers admitted they read and accepted the terms?
6. Will you order Soleimani to be arrested for perjury? What is that process like?
7. Do you believe Bhatia intentionally suborned perjury with that very leading question or was that unintentional?
8. Regarding Michael Haas, why was it so easy for someone under Federal subpoena in a criminal trial to get through Customs and out of the country?
9. Is Your Honor planning to report Bhatia to the Office of Professional Responsibility? Bar Association?
10. The defense claims a juror lied to get onto the case, and in fact knew Teman, saying he'd added him on LinkedIn long before trial, and runs a competing platform. Is your honor planning to call this juror in for questioning? Or has that already been done?
11. Attorneys Bhatia and Gutwillig accused Teman of forging a signature and then had to drop it when they realized it was his signature. This appears to be textbook "coercive plea bargaining", in that those claims would have netted Mr. Teman a minimum of four years in prison. Why did your honor allow the case to continue after such an obvious stunt?
12. Do you support coercive plea bargaining? Did you do it as a prosecutor? (Would you mind sharing your record of prosecutions and plea offers as a former prosecutor? Of course, only of unsealed cases.)
13. It seems that if a defendant wins a case, they are still "punished" with massive fees. If Mr. Teman is acquitted by Your Honor or Appeals, which seems most-likely given the facts and the government conceding his contract allowed the RCCs, and you find as Lois Weiss did that Bhatia outright lied to keep an unwarranted case going, is there anything you will do to ensure Mr. Teman is reimbursed his legal fees? Can you sanction SDNY and Bhatia to pay them? Can you order witnesses who lied to pay them?
14. Do defense teams in your court really not get a private conference room or work area during even a week-long trial?
15. Qualified Immunity is trending as a topic now, with lawmakers even introducing bills to undo SCOTUS' creation of it. Do you think Bhatia felt free to lie to you in open court because of such immunity? Are there other ways besides lawmakers undoing Qualified Immunity that you think might discourage behavior like Bhatia's?
16. Why do you think Bhatia, Soleimani, Haas, and Gabay felt so safe lying to you and disobeying court orders and/or subpoenas? Why does there not seem to be any fear by these people of lying to you? Do you think it is because they view you as "part of the Government" which is also the Prosecution?

17. Mr. Teman said in a suicide note, which appears to be offline now, that Your Honor disclosed that you contacted the SDNY Prosecutors ex-parte. Can you detail what happened on that call? With whom did you speak? Were they a former colleague? Why did you not make it a conference call with Gelfand and DiRuzzo -- what was on that call that you didn't want them to hear?

18. Can you explain why you interrupted Attorney Reinitz but allowed Bonnie Soon Osberger to go on uninterrupted? Are there different standards for defense witnesses versus prosecution, or for counsel?

19. You seemed upset at Mr. Reinitz? Was that the case? Why?

20. Why did you interrupt Gelfand and DiRuzzo at random times during their cross-examinations for breaks instead of simply having regular times for breaks that did not interrupt them in the middle of impeaching a witness? Even if they were to say, "Just a few more questions, your honor", it seems targeted at killing their flow. How did you pick when to interrupt defense counsel? Why did you do it more frequently than when Bhatia was in direct examination?

21. Early in the case when you set a date for the next hearing, you accused Mr. Teman of "rolling" his eyes at you, but he replied that he just sunk his head in despair as the case was harming him and he wanted to get to trial quickly. Later, you screamed at Gelfand and DiRuzzo about ethics, for hiding their strategy regarding advice of counsel. In light of Bhatia's behavior coming to light, do you have a different viewpoint on these actions?

22. Do you still think it was unethical for Gelfand and DiRuzzo to "hide the ball" in light of Bhatia's repeated misrepresentations?

23. When nominated for your role, you disclosed you held over \$5M in Berkshire Hathaway stock. Do you still hold shares in this company? How much? Are you invested in any other shareholders of Bank of America? Chase? Do you hold shares in any other banks? Have you performed legal services for banks during your time as a for-hire attorney?

Thank you.

Jake

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I use ProtonMail with pseudonym on Tor
for your protection,
and the protection of Free Press.

Everything is on the record unless you specify otherwise. Please clearly mark, "Off the record:" and ":end of off the record." I will respect your wishes.